IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 712 OF 2006.

The State of Maharashtra. ... Appellant.
Versus.
Bhagwan Gangaram Kadam. ... Respondent.

Shri S.N.Gawade, A.G.P. for the Appellant.

CORAM : ABHAY S.OKA, J.

DATED : 5th April, 2006.

P.C.:

1. Heard the learned A.G.P. for the State. The challenge in this Appeal is to the Judgment and Award dated 21st August 2004 passed by the learned Additional District Judge in a reference under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act").

2. On 4th May 1996 the property in question was notified for acquisition by issuing a notification under section 4 of the said Act. The acquisition was for a public purpose. In the present case the issue is only regarding the market value of the structure on the acquired land. The Special Land Acquisition Officer by award dated 28th February 1997 awarded compensation of Rs.16,278/- for the structure. The compensation has been enhanced by the impugned Judgment and Order by a further amount of Rs.16,278/-.

3. The learned A.G.P. submitted that the enhancement has been granted by the Reference Court by disregarding the elementary principles of valuation and without there being any evidence on record. He submitted that the entire burden was on the Claimant to show that the compensation awarded was inadequate and the said burden is not discharged.

4. I have considered the submissions. It must be noted here that the relevant date for determination of compensation is 4th May 1996. The Claimant led evidence of an expert valuer who estimated the value of the structure to the tune of Rs.42,000/-. On the basis of the evidence of the Claimant a finding has been recorded that the suit structure was constructed in brick and cement and the flooring was that of shahabad tiles. Mangalore tiles and G.I. sheets were used for the roof. The evidence on record shows that even teak wood was used in the construction of the house. Considering the use of such material, the Reference Court came to the conclusion that the market value of Rs.16,278/- of the structure fixed by the Land Acquisition Officer is not correct and the correct market value will be Rs.32,456/-. Even after accepting the evidence of valuer, the reference Court has granted compensation

which is less than the valuation made by the expert.

5. After having heard the learned A.G.P. for the State and after perusing the findings recorded by the Reference Court, no case is made out for interference as regards enhancement granted only in the sum of Rs.16,278/-. The market value of the structure fixed by the Reference Court is just and reasonable. No inference is called for. consequently the First Appeal is dismissed with no order as to costs.

Judge.